IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE
WRIT PETITION NO.239 OF 2004

Devji Khodidas Parmar .... Petitioner
Vs.
Smt. Ramuben Bhimji (deceased)
and others .... Respondents

Sarvasri Sugdhare h/f R.A. Thorat for
the Petitioner.

CORAM: R.M.S. KHANDEPARKAR, J.

DATED: SEPTEMBER 14, 2004

P.C:

Heard the learned Advocate for the petitioner. The petitioner challenges the concurrent findings arrived at by the Courts below dismissing the claim of the petitioner to be the tenant in relation to the suit premises. It was sought to be contended that the Courts below misread the evidence in relation to the Commissioner's report in as much as that the Commissioner's report discloses that the lock of the premises was opened by the petitioner in the presence of the Commissioner and that itself disclose the fact that the premises were in possession of the petitioner. Merely because the Commissioner's report discloses alleged possession of the premises with the petitioner, that itself cannot be sufficient to arrive at the conclusion about the status of the petitioner to be that

of a lessee in relation to the suit premises. It was necessary for the petitioner to establish by cogent evidence as to in what capacity he is in possession of the suit premises. Undisputedly, the evidence on record in the form of the income-tax returns disclosing the payment of rent to the landlord cannot be said to establish the relationship of landlord and tenant in relation to the suit premises as the income-tax returns are unilateral documents filed by the petitioner and for filing such returns or the contents of such returns, there is no need of any consent of the respondent/s. Being so, the Courts below having not accepted the evidence in the form of income-tax returns filed by the petitioner to be sufficient to arrive at the finding in favour of the petitioner regarding the relationship of tenant and landlord as claimed by the petitioner cannot be found fault with. Undisputedly, the certificate issued under the Shops and Establishment Act and produced on record by the petitioner does not describe the suit premises to be the premises in respect of which the said certificate has been issued. Being so, in the absence of proper evidence on record, the findings arrived at by the Courts below cannot be found fault with. Hence there is no case for interference in writ jurisdiction in the impugned order. The petition, therefore, fails and is hereby rejected.